



Law Offices of
Bennet & Bennet, PLLC

1000 Vermont Avenue, NW, Tenth Floor

Washington, DC 20005

Tel: (202) 371-1500

Fax: (202) 371-1558

e-mail: mail@bennetlaw.com

www.bennetlaw.com

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Federal Communications Commission
Office of the Secretary

Rebecca D. Bennet

Michael R. Bennet

Marjorie G. Spivak

Gregory W. Whiteaker

Howard S. Shapiro

Donald L. Herman, Jr.

Rebecca L. Murphy

Joshua P. Zeldis

Of Counsel
Michael K. Kurtis

Senior Communications Consultants

Kenneth C. Johnson

G. Kent Larsen

Director of Engineering

Herbert C. Harris

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Federal Communications Commission
Bureau / Office

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: E.N.M.R. Telephone Cooperative, Inc. Request for Waiver of FCC
Form 499-A Consolidated Filing Requirement

Dear Ms. Dortch:

On November 18, 2003, E.N.M.R. Telephone Cooperative, Inc. ("ENMR") filed its 2003 FCC Form 499-A Telecommunications Report Worksheets correcting previous submissions for that year. Forms were filed separately for the two markets ENMR operates in. ENMR separately informed the Commission of its belief that filing the forms on a division basis is permissible, and its intent to continue to file on this basis unless and until it receives formal notification from the Commission that it should no longer do so.

ENMR has since learned from the Wireless Telecommunications Bureau's Policy Division staff that the staff interprets the Form 499 filing requirements differently from ENMR, and that a waiver would be necessary for ENMR to continue to file on a division basis. Accordingly, pursuant to Sections 1.3 and 54.711(c)¹ of the Commission's rules, ENMR hereby requests, to the extent necessary, a waiver of the Commission's policy, as expressed in the Instructions to the Telecommunications Reporting Worksheet, Form 499-A ("Instructions"), that "each legal entity" file a copy of the Worksheet², to allow ENMR to continue to file separate Worksheets for each of the two markets in which it provides telecommunications service.

There is good cause for grant of the requested waiver. Application of the Commission's policy to ENMR would be inequitable and impose undue burdens on ENMR. ENMR is licensed to provide cellular service in two markets – New Mexico RSA 2 and New Mexico RSA 6 – II. ENMR has set up its books to track activity in each

¹ See 47 C.F.R. § 54.711(c) (permitting the Wireless Telecommunications Bureau to "waive, reduce, modify, or eliminate contributor reporting requirements").

² Instructions at p. 7 ("Each legal entity that provides interstate telecommunications service for a fee, including each affiliate or subsidiary of an entity, must complete separately and file a copy of the attached Telecommunications Reporting Worksheet, except as provided for below.").

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market separately, and ENMR has found that keeping separate books within its markets is administratively more efficient than consolidating markets. In formulating and modifying its Form 499 filing requirements, the Commission has taken steps to "reduce the regulatory costs of complying with universal service obligations" and "substantially decrease the administrative burdens" on contributors.³ Further, the Commission has endeavored to avoid requiring accounting changes that a company would have to follow "solely for Worksheet reporting purposes."⁴ In ENMR's unique case, it has chosen the most efficient reporting method and it would be contrary to the Commission's reporting goals if ENMR had to consolidate its divisions solely for reporting purposes.

In addition to easing ENMR's administrative accounting burdens, filing on a division basis allows ENMR to determine the relative profitability of each market in which it has a license, which in turn enables it to more accurately value each license. In addition, the separate accounting assists ENMR in targeting its marketing more efficiently to each market.

Grant of the requested waiver is consistent with the underlying purpose of the Commission's single entity policy. The policy is intended to prevent carriers from filing their Form 499 under enough subdivisions so that each subdivision qualifies for the *de minimis* exception.⁵ ENMR has never qualified for the *de minimis* exception for either of its markets and does not conceive that it will ever be in a position to avail itself of the exception. However, even if ENMR was able to qualify one or more of its divisions for the *de minimis* exception, ENMR has no intent to evade its contribution obligations and is willing to comply with any reasonable condition that the Commission may choose to place on a waiver that will make the *de minimis* exception unavailable to ENMR or otherwise require it to make contributions as if it were filing as a single entity.

The requested relief is consistent with the Commission's goal that a carrier's decision as to whether or not to file on a consolidated basis "have no negative impact on the integrity of the information contained in the Worksheet."⁶ For the foregoing reasons, ENMR respectfully requests that the Commission grant the relief requested herein.

Sincerely,



Michael R. Bennet
Counsel for E.N.M.R. Telephone Cooperative, Inc.

cc: Diane Law-Hsu

³ *In re Federal-State Joint Board on Universal Service*, 67 Fed. Reg. 11254, 11255.

⁴ *Id.*

⁵ Pursuant to Section 54.708 of the FCC's rules, telecommunications carriers whose contribution for a particular year would be less than \$10,000 are not required to contribute to the universal service support mechanism for that year.

⁶ *In re Federal-State Joint Board on Universal Service*, 67 Fed. Reg. at 11255.